

Attention: DIRECTOR, INFRASTRUCTURE PROJECTS

North West Rail Link (NWRL)

Environment Impact Statement 2

Response Submission regarding detrimental impact of NWRL on Robert Road, Cherrybrook

December 2012

Ian McLean

5 Robert Road,

Cherrybrook. 2126 NSW

Submission No. SS1-5414

Attention:-

Director of Infrastructure Projects.

From:-

Ian McLean

5 Robert Road,

Cherrybrook

Date: 2nd December 2012

North West Rail Link

Environmental Impact Statement 2

Submission of Comments for Consideration

Application No. SS1-5414

Summary:

In general I accept there is a need for a Railway Station at Cherrybrook, however there aspects to the proposed Cherrybrook Station, as described in the EIS2 that I strongly disagree to.

Overview of events leading up to this submission and compensation claims as a result of the treatment received by NWRL:

1. My wife Thea and I, purchased the house AT 5 Robert Road, Cherrybrook in a leafy laneway in 1994 on the full understanding that a railway station was planned for Franklin Rd, but would be half a kilometer away. We paid the appropriate price for a quiet street. We raised 2 wonderful boys and sent them to Northholm Grammer...a struggle but a great decision. As community members we support the Dural Musical Society as caring locals proud of our area and we quite often have many of them to our house for get togethers. **(I am in discussions with Mahony Taren Lawyers)**

Then:

In December 2011, my wife Thea was tragically diagnosed with Motor Neurone Disease and became house bound.

2. In March 2012 I found out the Cherrybrook Station is now being built across the road from our home **(I am in discussions with Mahony Taren Lawyers)**

3. NWRL via Cecilia chose to tell Thea my wife, who as described is not well with Motor Neurone Disease, while I was overseas. She forgot to tell me understandably as her life is in turmoil. My neighbour from 3 Robert Road told me when I bumped into him at the shopping centre weeks later. **(I am in discussions with Mahony Taren Lawyers)**

I might add we purchased here 18 years ago as previously advised, and are proud residents alongside Noel, a spritely gentleman who built his house at 7 Robert Road in 1956. Noel also went to war in New

Guinea for us all....no apologies from NWRL. (the media have been made aware for future action). Noel does not have a computer and lives alone. He has rarely seen anyone from NWRL to assist him with any enquiries and he is too elderly to attend meetings. This is disgusting.

4. I was then advised there would be a huge fence across the road from our house and that the building site will have storage for prefab concrete slabs accessible 24 hours a day directly across the road from my wifes bedroom....20 meters away....no apology from NWRL. **(I am in discussions with Mahony Taren Lawyers)**.

I helped form a committee to represent the residents to fight for Robert Rd, whilst I also independently fought my own battle for mine and my wifes property, and my neighbours and my rights. The group was called the Robert Rd Action Group. Considerable time and effort went into this committee with many hours and days taken off from work.

EIS1 Submissions... my wife and I put in an objection to this movement of the station to across the road from our home without any consultation, and in particular on the EIS1 footprint of the development site, the location of the prefab concrete slabs for use in the tunnels . We have since been advised, that this is nothing to do with NWRL, and we will need to speak to the contractor when the site is being set up. **(I am in discussions with Mahony Taren Lawyers)**

It is an NWRL project: **I once again seek clarification that the concrete slabs, should we lose our ongoing fight and the station indeed be built across the road from our house, will not be directly across the road from our house and my wifes bedroom, and accessed 24 hours a day, 7 days a week as stated in EIS1. This will cause us enormous stress and anguish.**

The Committee and myself were then advised that post the tunnel building there was a plan to make it a station in the forest and potentially return the land across the road into parkland or simply a green zone (a glimmer of hope in the distance...to sweeten my pain and subdue my wife, myself and the residents...a blatant lie). Residents in Cherryhaven Way were incorrectly informed of the predetermined ultimate plans for their land and continually told by Adrian Bull, consultants and liaison officers that the station was butting up hard onto the corner of Robert Road and Castle Hill Road and therefore requiring all the additional land there would be no room for an additional egress road off Castle Hill Road.

Note: EIS2 was released once the residents along Robert Road East and Cherryhaven Way had been forced to accept FAIR MARKET VALUE and sell under a veil of secrecy, threatened that their offers may be reduced should they disclose to anyone outside the group and NWRL. (see Channel 10 news report on www.saverobertroad.com under the Media section).

The said purchase of the houses across the road on Robert Rd in Cherryhaven Way and the new Childcare Centre, were concluded under a veil of secrecy. Many residents did not want to sell. The NWRL always advised those residents and ourselves that the land was needed as the railway was now being brought right up to the corner of Robert Rd and Castle Hill Rd, and would be potentially be a green belt, at the worst a car park....when the station was completed. the station has miraculously moved east and now there are large grey areas where it is proposed to put multistorey developments across the road from me on the land so cheaply acquired it would seem.

EIS2 is released and the station has miraculously moved east and now there are large grey areas where it is proposed to put multi-storey developments across the road from my wife and I on the land so cheaply acquired it would seem. I have it on good advice that the State Government regard this as a major coo and are celebrating their win over these residents. I am wondering when State Government became involved in Real Estate wheeling and dealing at the expense of rate payers. We were told that the station has moved east again due to the submissions of the residents.....sure. You can't tell me senior management in NWRL were already aware exactly where that station was going all along.

Definition of FAIR MARKET VALUE: **Fair market value (FMV)** is an estimate of the [market value](#) of a [property](#), based on what a knowledgeable, willing, and unpressured [buyer](#) would

probably pay to a **knowledgeable**, willing, and **unpressured** seller in the market. An estimate of fair market value may be founded either on precedent or extrapolation. A property sale, in lieu of an eminent domain taking, **would not be considered a fair market transaction since one of the parties (i.e., the seller) was under undue pressure to enter into the transaction.**

I ARGUE THAT THESE RESIDENTS WERE NOT OFFERED , AND SHOULD HAVE BEEN OFFERED FAIR VALUE, not **FAIR MARKET VALUE** for their homes, given they were under duress to sell, and were therefore should have been subject to valuations based on IFRS 13 FAIR VALUE MEASUREMENTS. A brief overview as taken from Ernst and Youngs definition below.

“A fair value measurement of a non-financial asset takes into account a market participant’s ability to generate economic benefits by using the asset in its *highest and best* use or by selling it to another market participant that would use the asset in its highest and best use.

The highest and best use of a non-financial asset takes into account the use of the asset that is physically possible, legally permissible and financially feasible, as follows:

(a) A use that is physically possible takes into account the physical characteristics of the asset that market participants would take into account when pricing the asset (eg the location or size of a property).

(b) A use that is legally permissible takes into account any legal restrictions on the use of the asset that market participants would take into account when pricing the asset (eg the zoning regulations applicable to a property).

(c) A use that is financially feasible takes into account whether a use of the asset that is physically possible and legally permissible generates adequate income or cash flows (taking into account the costs of converting the asset to that use) to produce an investment return that market participants would require from an investment in that asset put to that use.”

It is my considered opinion that these residents, many of whom were my friends, were unfairly treated financially, and that New South Wales State Government and NWRL have entered into Real Estate trading and have found themselves securing a considerable windfall at the expense of these residents and to the total disadvantage of their neighbors. (**I am in discussions with Mahony Taren Lawyers**)

I then gleaned via questioning (it was not volunteered information) that it was proposed to give buses access into the station via Robert Rd, thus bypassing the purpose built County Drive and Castle Hill Roads. Subsequent questioning of the Consultants looking after the project, found they had not even driven down our street as they had no idea there was a chican in the middle of the road at Robert Park on Robert Road. (**I am in discussions with Mahony Taren Lawyers**)

I then gleaned via further questioning a while later it was now proposed to make it buses and cars in both directions on Robert Rd accessing and leaving the station, and residents and guests will not be permitted to park on the road in front of our houses to allow all cars and buses unimpeded access to and from the station. (**I am in discussions with Mahony Taren Lawyers**).

No discussion would be entered into in respect to:

a) **Rubbish collection** and the effect this would have on traffic (see below photo demonstrating the road width is not adequate for safe rubbish collection and buses and cars in both directions taken from the road in front of our house).



b) The estates running off Robert Road do not have sufficient road width to allow rubbish trucks to collect from within their estate. See picture below taken from outside my house. How will I reverse out of my house into 2 lane of traffic in both directions, plus a rubbish truck stopped here to empty the rubbish bins...IT WON'T WORK!)



c) roads are already cracking just with general use as they are constructed as an access road, not a local road. (See picture below taken outside my house).



Incorrect Classification of Robert Road by Consultants AECOM

Subsequent investigation has shown that EIS2 is **void** due to the fact that Franklin Road and Robert Road measurements are incorrect. **(I am in discussions with Mahony Taren Lawyers)**

Please find the below report from Gurmeet Singh, Civil Engineer.

REFER: Environmental Assessment No. 2 Technical Paper: Construction Traffic and Transport Management - PREPARED BY AECOM AND ATTACHED IN EIS2 REFER PAGE NO.28, HERE IS EXTRACT BELOW

Franklin Road, Robert Road and Glenhope Road are all local roads with priority junctions at Castle Hill Road. Adjacent to the site Franklin Road and Robert Road are narrow two lane pavements. Robert Road is a narrow road of approximately 8.5 metres which provides only a single traffic lane if vehicles are parked on both sides of the road. Franklin Road provides kerb and gutter on the western side of the road with a narrow two lane pavement (approximately 7.5 metres wide) and narrow unsealed shoulder on the eastern side of the street. Glenhope Road provides two traffic lanes

and parking lanes adjacent to the kerb although no edge marking is provided.

CIVIL ENGINEERS RESPONSE (engaged by Robert Road residents): This is Totally Incorrect. The actual road width of Robert Road is 7 m and Franklin Road is close to 9 m (for section between Doulton Drive and Castle Hill Road). IF anyone has access to GOOGLE EARTH, you can measure the width (there is a tool).

ALSO NOTED THAT ROBERT ROAD HAS BEEN REFERRED AS LOCAL ROAD BY HORNSBY SHIRE COUNCIL (REFER CHAPTER 9, SECTION 9.5.2) AS PER AUSROAD (National Association of Roads and Traffic Australia which is the national body for road standards), Local Road is classified as two way lane with 2 parking lanes allowed and width a carriageway width of 9 m. FRANKLIN road fits into this category of local road, not ROBERT road. Robert Road (based on 7 m) carriageway width is to be classified as Cul-de-Sac or Access road (it is not very specific), BUT it is not a LOCAL road (as referred by Council) by any standards.

CONCLUSION: EIS2 is void. All analysis undertaken by consultant AECOM whether intentionally or unintentionally are based on wrong carriageway widths, this includes LINSIG analysis. Also Robert Road is classified wrongly as LOCAL Road.

Disclaimer as per Gurmeet Singhs email to me dated 2nd December 2012.....'As pointed in my earlier email, I don't mind sending this to Dominic and others. Note my interpretations are solely based on factual knowledge from what is presented in the EIS 2 documentation and therefore must be interpreted in that context.'

Note: All the below members were emailed this information on Sunday the 2nd December to action and support our motion that **EIS2 is void**.

'office@beregiklian.minister.nsw.gov.au'; 'office@premier.nsw.gov.au';
'office@deputypremier.nsw.gov.au'; 'office@gay.minister.nsw.gov.au';
'office@page.minister.nsw.gov.au'; 'castlehill@parliament.nsw.gov.au';
'blacktown@parliament.nsw.gov.au'; 'linda.burney@parliament.nsw.gov.au';
'Luke.Foley@parliament.nsw.gov.au'; 'Penny.Sharpe@parliament.nsw.gov.au';
'Keira@parliament.nsw.gov.au'; 'sophie.cotsis@parliament.nsw.gov.au'
'castlehill@parliament.nsw.gov.au'

Treatment of myself at NWRL meetings and events pre and post EIS1 submissions:

At a meeting held with senior management of NWRL by members of the Committee representing the effected residents in the area, a senior NWRL official was heard whispering under his breath "take the train", when we outlined our disbelief at the proposal to take our parking away, and that our residents would have a severe problem with where to park their, and their guests, cars if no on street parking was allowed,...intimating we reduce the cars in our family...such was the level of care. We were also told by the same individual at one of the meetings that "this is not a debate" while people who are adversely effected by the whole project were expressing their concerns. I was disgusted by the Bully Boy tactics.

(I am in discussions with Mahony Taren Lawyers)

Lost EIS1 submission and minority group impact:

1. Our group EIS1 submission prepared by the Committee and signed by many of the local residents, (please find attached and resubmitted for the various points we were told would be addressed and answered in EIS2) was conveniently **lost** by NWRL despite it being hand delivered and therefore not tabled in time to be included in statistics (no apology for the lost petition from NWRL and No amendments were made to EIS1 although a significant number of amendments were tabled....not one)....that petition was also representing a significant number of residents new to the area who spoke very little English (many are at the bottom of Robert Road had no idea of the ramifications. I met many of them again last week as I door knocked the area....no apology for the lost petition from NWRL..one of the largest in the entire NWRL project ...and no offer to supply interpreters or assistance to prepare the EIS2 submission. This is a major oversight by NWRL liaison officers.
2. It was also apparent that quite a number of the residents in that area were renting and were not interested in putting a submission in or quite simply had such a poor command of English they had no idea how to. These crucial submissions were lost to EIS1 and potentially EIS2.
3. Was a copy of EIS2 sent to the owners of these houses which were being rented? The tenants told me they had not on forwarded. More critical submissions lost.
4. My neighbor, Noel Springer of 7 Robert Road, Cherrybrook, is a returned serviceman from New Guinea in World War 11, and does not have a computer at home. He is also elderly and does not get out of his house very often. I am not aware that anyone from NWRL has been to see Noel since EIS2 came out and I have been housebound looking after my ill wife for the past year. This man does not have representation and that is disgusting by NWRL.
5. I had the resident from 1 Robert Road at my house signing a petition on the 2nd December and I asked him if NWRL had assisted him. His response was that his English was poor and he did not really understand EIS2 and the implications and twice over the last 11 months he has been spoken to by NWRL liaison officer and the discussion was not helpful.

Deception and divisive tactics.

I was phoned by the NWRL liaison officer (witness available) and advised that the NWRL EIS2 was out (I certainly hope all residents were called..or was I singled out because I was on the Committee). I was told in a very happy voice that I would be "pleasantly surprised by the new design". I was travelling and it took a few days for me to get to read it. I advised my wife there was apparent good news as such.

When I did get to view EIS2, I realized our nightmares were now worse again. NWRL had put a green belt in front of my neighbours houses further up the road and now I had a dogleg which allowed the cars and buses to head directly towards and away from my front gate...I am now the Eye of the tiger...and my property value would be further reduced. We are devastated. **(I am in discussions with Mahony Taren Lawyers)**

The green belt happens to be in the front of the neighbour who was heading up the Robert Road Action Group, and upon viewing, he withdrew from head of the action group thus effectively disbanding it at this 11th hour, as there was apparently a concern that if he continued to front the protest he may lose any concessions his family was able to obtain from the new EIS2 design. This must have put him in an untenable position, and hence placed the pressure on myself to pick up the challenge and head up the information distribution to the residents. I was only able to start in earnest on Thursday the 22nd of November. No further meetings of the EIS1 Robert Road Action group were held. NWRL had effectively silenced us. Divide and conquer. **(I am in discussions with Mahony Taren Lawyers)**

I went door knocking to raise the alarm. 98% OF THOSE RESIDENTS I SPOKE TO WERE ALARMED BUT DID NOT KNOW HOW TO HELP. We had a meeting in the park. Banners, flyers and bumper stickers are being arranged. The media are on tap and we will use them when we are ready.

County Drive and Castle Hill Road Intersections:

NWRL claim this intersection is category F.

This is incorrect, as we had a professional company INCO (approved by the RTA) compile statistics to address the lack of statistics NWRL or the Department of Transport were able to offer in regards the County Drive and Castle Hill intersection, the traffic on Castle Hill Road and the bus patronage that was so critical on John road in bringing the buses in off County Drive and up Robert Road. See that report on the following link which substantiates our claim that the buses should by pass Robert Rd. www.saverobertroad.com Visit the link OUR TRAFFIC STUDY.

Robert Road.

NWRL claims Robert Road is not a street utilised by locals for parking and has capacity for additional traffic flow.

This is incorrect as we have had a professional company INCO (approved by the RTA) conduct a survey. See report in www.saverobertroad.com OUR TRAFFIC STUDY

Buses.

NWRL claims it is critical that buses must travel along John Rd and hence up Robert Road and loop to the station to service the customers in John Road.

This is incorrect as we have had a professional company INCO (approved by the RTA) conduct a survey. See report in www.saverobertroad.com OUR TRAFFIC STUDY

See invoice attached from INCO billed to myself for the study **(I am in discussions with Mahony Taren Lawyers)**

In summary:

I totally reject the NWRL proposals for the following reasons:

1. The road measurements in EIS2 are flawed and as such make the report VOID.
2. The Railway should be moved back to the original fingerprint. See EIS1 submission report attached and my original EIS1 cover letter which has many points yet to be addressed.
3. REAL Estate procured by NWRL was unfairly purchased and should be green zone for the residents to enjoy as proposed initially to residents, since it is too late to return the real estate to the residents who were not paid appropriate payments.
4. Robert Road is too narrow, not substantial enough, and fully utilized by local residents to make into a sub arterial road.
5. Buses do not need to use John road as there is not significant enough patronage.
6. County Drive must be opened up with 2 lanes in each direction as designed and handle the load, not suburban streets.
7. Dominic Perrettet MP in his November newsletter, states that the NWRL link will reduce traffic flow in the area by the time it opens, and therefore Robert Road will not be needed. Gladys Berejiklian agrees with Dominic as she is standing next to him in a photo in the newsletter.
8. NWRL has proposed to develop high rise on land acquired across the road from our dwelling, and as such our house value has been reduced. There is no guarantee our house will be rezoned similarly ever.
9. Our street is a quiet residential street, and was never proposed for such a major development.
10. My wife who is ill, was never visited by anyone from NWRL post the February discussion despite invitations being sent on numerous occasions to Gladys Berejiklian's office.
11. My elderly neighbours and poor English speaking neighbours have not been suitably informed and are disadvantaged.
12. The estates running off Robert Rd will not have adequate parking and rubbish collection areas.

Please note: Please be aware that if the proposed station movement to Robert Road, the use of Robert Rd as discussed, the situation of proposed allotments for high rise and other issues mentioned are not addressed in my favour, I will be actively seeking compensation for my wife and I.

I hereby swear I have not made any donations to political parties ever.

Ian McLean

5 Robert Road,

Cherrybrook. 2126 NSW

0430 118404

cc. **Mahony Taren Lawyers.**